



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2022-1476; Project Identifier MCAI-2022-00508-Q; Amendment 39-22244; AD 2022-24-04]

RIN 2120-AA64

Airworthiness Directives; MarS A.S. Parachutes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2022-07-05, which applied to certain MarS A.S. emergency parachutes. AD 2022-07-05 superseded AD 2022-05-09, expanded the applicability, and required removing all emergency parachutes manufactured since 2016. Since the FAA issued AD 2022-07-05, MarS A.S. developed a modification for the emergency parachutes to correct the unsafe condition. This AD requires modifying and re-identifying the emergency parachutes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The FAA must receive comments on this AD by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- Fax: (202) 493-2251.

- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2022-1476; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this final rule, contact MarS A.S., Okružní II 239, 569 43 Jevíčko, Czech Republic; phone: +420 461 353 841; email: mars@marsjev.cz; website: marsjev.com.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2022-1476.

FOR FURTHER INFORMATION CONTACT: Kevin Kung, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7244; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include “Docket No. FAA-2022-1476; Project Identifier MCAI-2022-00508-Q” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Kevin Kung, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA

01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022-07-05, Amendment 39-21992 (87 FR 15873, March 21, 2022) (AD 2022-07-05), for all MarS A.S. ATL-88/90-1B (commercially known as ATL-15 SL) emergency parachutes manufactured from 2016. AD 2022-07-05 superseded AD 2022-05-09, Amendment 39-21960 (87 FR 10712, February 25, 2022) (AD 2022-05-09) by retaining the requirement to remove the emergency parachutes from service while expanding the applicability of AD 2022-05-09 from certain serial-numbered parachutes to all emergency parachutes.

AD 2022-07-05 was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued Emergency AD 2022-0029-E, dated February 23, 2022, to correct an unsafe condition identified as the length of the ripcord between the pins being too long, which could cause a malfunction of the emergency parachute. Malfunction of the emergency parachute could result in failure of the emergency parachute to deploy when needed.

Actions Since AD 2022-07-05 was Issued

Since the FAA issued AD 2022-07-05, EASA revised Emergency AD 2022-0029-E, dated February 23, 2022, and issued EASA AD 2022-0029R1, dated April 11, 2022 (referred to after this as “the MCAI”). The MCAI was issued after MarS A.S. developed a modification and re-identification of the emergency parachutes.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2022-1476.

Comments

The FAA gave the public the opportunity to comment on AD 2022-07-05 and received comments from one commenter, the Aeronautical Repair Station Association (ARSA).

ARSA requested the FAA withdraw AD 2022-07-05 because it contends that the agency lacks the legal authority to issue an AD on MarS A.S. ATL-88/90-1B parachutes. ARSA stated that, although 14 CFR 39.3 provides that ADs may apply to an appliance, a personal parachute (such as the emergency parachute that was the subject of AD 2022-05-09 and AD 2022-07-05) is not an appliance under the definitions in 14 CFR 1.1, 91.307, or 105.3. To the extent the FAA relies upon the statutory definition of an appliance in 49 USC 40102(11), which includes a parachute, ARSA suggested that this ignores two of the three “prerequisites” in that definition. Specifically, ARSA stated that personal parachutes (1) are not “used, capable of being used, or intended to be used in operating or controlling aircraft in flight” and (2) are not “installed in or attached to aircraft during flight.”

ARSA’s position that there are three prerequisites for an item to be an appliance is based on its interpretation of the current statutory definition of “appliance” in 49 USC 40102(11):

“[A]pppliance” means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

Based on the statutory history, the FAA disagrees with the commenter’s interpretation. The statutory definition of appliance has included parachutes since the original Civil Aeronautics Act of 1938.¹ The definition was re-codified without change

¹ Public Law 75-706; 52 Stat. 973.

when Congress created the Federal Aviation Agency (later the Federal Aviation Administration) with the Federal Aviation Act of 1958.² The original versions of the statutory definition read as follows:

‘Appliances’ means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

The formatting of this original definition differs from the current definition. The original definition was changed to the current definition in 1994, when Congress revised and re-codified existing transportation and aviation legislation.³ In the legislation’s introductory text, Congress explicitly enacted the revision “without substantive change.” The formatting changes, therefore, did not alter the meaning of the definition. At the time of the Civil Aeronautics Act, personal use parachutes were the only type of parachute Congress could have intended to include in its definition of appliance. Whole aircraft parachutes (aircraft rescue system parachutes, airframe parachute systems, etc.) were not developed until many decades later. The FAA issues design approval for these types of parachute systems at the aircraft product level (type certificate, amended type certificate, or supplemental type certificate). As an appliance, the FAA issues design approval of personal use parachutes under a Technical Standard Order (TSO).

The FAA has been regulating parachutes – including personal use parachutes – as appliances for over 80 years. In promulgating and revising its regulations on parachute rigger certification (14 CFR part 65, subpart F) and parachute operating rules (14 CFR part 105), the agency has cited its rulemaking authority set forth in 49 USC

² Public Law 85-726; 72 Stat. 737.

³ Act of Jan. 25, 1994, Public Law 103-272; 108 Stat. 745.

44701(a)(2)(A) for “aircraft, aircraft engines, propellers, and appliances.”⁴ This is the same statutory authority for airworthiness directives under 14 CFR part 39. Moreover, the FAA’s Parachute Rigger Handbook advises parachute riggers that they are required under 14 CFR part 39 to comply with parachute ADs “to ensure the safety and function of parachutes that have been found in some manner to be defective.”⁵

The FAA made no changes to this AD as a result of this comment.

Conclusion

The FAA reviewed the relevant data, considered the comments received on AD 2022-07-05, and determined that air safety requires adoption of the AD. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information under 1 CFR Part 51

The FAA reviewed MarS a.s. Service Bulletin No. 01/04/2022, Rev. C, dated April 8, 2022. This service information specifies returning the affected emergency parachutes to the manufacturer for modification and re-identification. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in ADDRESSES.

AD Requirements

This AD requires modifying the emergency parachutes and re-identifying part numbers (P/Ns) 09994, 09995, and 09996 as P/Ns 09994-1, 09995-1, and 09996-1, respectively. Since the modification is required as of the effective date of the AD, the parachutes cannot be used in service until they are modified.

FAA’s Justification and Determination of the Effective Date

⁴ See, for example, Clarification of Parachute Packing Authorization (75 FR 31283, June 3, 2010). See also Parachute Jumping (27 FR 11635, Nov. 27, 1962), in which the FAA cited Sec. 601 of the Federal Aviation Act of 1958 as its authority. Sec. 601 was later re-designated as 49 USC 44701.

⁵ Parachute Rigger Handbook, FAA-H-8083-17A, Ch. 1, pp. 1-8 to 1-9 (Change 1, Dec. 2015). A copy of this document can be found at: https://www.faa.gov/regulations_policies/handbooks_manuals/aviation.

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because there are no affected emergency parachutes in the United States and thus, it is unlikely that the FAA will receive any adverse comments or useful information about this AD from U.S. operators. Accordingly, notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

This AD does not affect any emergency parachutes used in the United States. According to the manufacturer, none of the affected emergency parachutes were sold through its distributors in the United States. In the event an affected emergency parachute

is brought into the United States, the following is an estimate of the costs to comply with this AD:

Estimated costs

Action	Labor Cost	Parts Cost	Cost per product	Cost on U.S. operators
Modify and re-identify emergency parachute	6 work-hours x \$85 per hour = \$510	\$88	\$598	\$0

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39 - AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by:

- a. Removing Airworthiness Directive 2022-07-05, Amendment 39-21992 (87 FR 15873, dated March 21, 2022); and

- b. Adding the following new airworthiness directive:

2022-24-04 MarS A.S.: Amendment 39-22244; Docket No. FAA-2022-1476; Project Identifier MCAI-2022-00508-Q.

(a) Effective Date

This airworthiness directive (AD) is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) Affected ADs

This AD replaces AD 2022-07-05, Amendment 39-21992 (87 FR 15873, dated March 21, 2022).

(c) Applicability

This AD applies to MarS A.S. ATL-88/90-1B (commercially known as ATL-15 SL) emergency parachutes part number (P/N) 09994, P/N 09995, and P/N 09996 (no dash number) that meet either of the criterion in paragraph (c)(1) or (2) of this AD:

- (1) The parachute has a date of manufacture of January 1, 2016, or later; or
- (2) The date of manufacture of the parachute is unknown.

(d) Subject

Joint Aircraft System Component (JASC) Code 2563, Parachute.

(e) Unsafe Condition

This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as the length of the ripcord between the pins being too long, which could cause a malfunction of the emergency parachute. The unsafe condition, if not addressed, could result in failure of the emergency parachute to deploy when needed.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Actions

As of the effective date of this AD, modify and re-identify each emergency parachute in accordance with the Service Bulletin Procedure, paragraph 7.b., of MarS a.s. Service Bulletin No. 01/04/2022, Rev. C, dated April 8, 2022.

(h) Special Flight Permit

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Boston ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with

14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(2) of this AD and email to: 9-AVS-AIR-BACO-COS@faa.gov. If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2022-0029R1, dated April 11, 2022, for related information. This EASA AD may be found in the AD docket at regulations.gov under Docket No. FAA-2022-1476.

(2) For more information about this AD, contact Kevin Kung, Aviation Safety Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7244; email: 9-AVS-AIR-BACO-COS@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) MarS a.s. Service Bulletin No. 01/04/2022, Rev. C, dated April 8, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact MarS a.s., Okružní II 239, 569 43 Jevíčko, Czech Republic; phone: +420 461 353 841; email: mars@marsjev.cz; website: marsjev.com.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: fr.inspection@nara.gov or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued on November 9, 2022.

Christina Underwood, Acting Director,
Compliance & Airworthiness Division,
Aircraft Certification Service.

[FR Doc. 2022-26206 Filed: 12/1/2022 8:45 am; Publication Date: 12/2/2022]